

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

NATHANIEL H. MITCHELL, #232793,

Petitioner,

v.

CASE NO. 5:12-CV-13817
HONORABLE JOHN CORBETT O'MEARA

MICHAEL CURLEY,

Respondent.

ORDER DENYING MOTION TO WAIVE FEES

In 2012, Michigan prisoner Nathaniel H. Mitchell (“Petitioner”) filed a pro se petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 challenging his Saginaw County Circuit Court conviction for armed robbery, carjacking, felon in possession of a firearm, and possession of a firearm during the commission of a felony. He was sentenced as a third habitual offender to concurrent terms of 22 ½ to 40 years imprisonment on the armed robbery and carjacking convictions, a concurrent term of five to 10 years imprisonment on the felon in possession conviction, and a consecutive term of two years imprisonment on the felony firearm conviction in 2003. The Court transferred the case to the United States Court of Appeals for the Sixth Circuit as a second or successive petition. In 2013, the Sixth Circuit denied Petitioner authorization to file a second or successive petition. *In re Nathaniel Mitchell*, No. 12-2151 (6th Cir. July 15, 2013).

Petitioner now moves this Court to waive filing fees. Petitioner’s request must be denied. He no longer has a matter pending before this Court. His habeas petition was transferred to the Sixth Circuit, which denied him permission to file a second or successive petition. To the extent that Petitioner seeks to proceed on new claims, he must file a new habeas petition (after exhausting state

court remedies) and seek authorization from the Sixth Circuit to proceed on a successive petition. *See* 28 U.S.C. § 2244(b)(3)(A); *Stewart v. Martinez-Villareal*, 523 U.S. 637, 641 (1998); *In re Wilson*, 142 F.3d 939, 940 (6th Cir. 1998); *see also Felker v. Turpin*, 518 U.S. 651, 664 (1996). Accordingly, the Court **DENIES** Petitioner's motion to waive fees. This case remains closed.

s/John Corbett O'Meara
United States District Judge

Date: April 16, 2015

I hereby certify that a copy of the foregoing document was served upon the parties of record on this date, April 16, 2015, using the ECF system and/or ordinary mail.

s/William Barkholz
Case Manager